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09300HB5056ham001

LRB093 21020 AMC 49467 a

1 AMENDMENT TO HOUSE BILL 5056

2 AMENDMENT NO. _____. Amend House Bill 5056 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Transmitters of Money Act is amended by
5 changing Sections 40, 45, and 75 as follows:

6 (205 ILCS 657/40)

7 Sec. 40. Renewals of license.

8 (a) As a condition for renewal of a license, a licensee
9 must submit to the Director, and the Director must receive, on
10 or before December 1 of each year, an application for renewal
11 made in writing and under oath on a form prescribed by the
12 Director. A licensee whose application for renewal is not
13 received by the Department on or before December 31 shall not
14 have its license renewed and shall be required to submit to the
15 Director an application for a new license in accordance with
16 Section 25. Upon a showing of good cause, the Director may
17 extend the deadline for the filing of an application for
18 renewal. The application for renewal of a license shall contain
19 or be accompanied by all of the following:

20 (1) The name of the licensee and the address of the
21 principal place of business of the licensee.

22 (2) (Blank) ~~A list of all locations where the licensee~~
23 ~~is conducting business under its license and a list of all~~
24 ~~authorized sellers through whom the licensee is conducting~~

1 ~~business under its license, including the name and business~~
2 ~~address of each authorized seller.~~

3 (3) Audited financial statements covering the past
4 year of operations, prepared in accordance with generally
5 accepted accounting principles, showing the financial
6 condition of the licensee. The licensee shall submit the
7 audited financial statement after the application for
8 renewal has been approved. The audited financial statement
9 must be received by the Department no later than 120 days
10 after the end of the licensee's fiscal year. If the
11 licensee is a wholly owned subsidiary or is eligible to
12 file consolidated federal income tax returns with its
13 parent, the licensee may submit unaudited financial
14 statements if accompanied by the audited financial
15 statements of the parent company for its most recently
16 ended year.

17 (4) A statement of the dollar amount and number of
18 money transmissions and payment instruments sold, issued,
19 exchanged, or transmitted in this State by the licensee and
20 its authorized sellers for the past year.

21 (5) A statement of the dollar amount of uncompleted
22 money transmissions and payment instruments outstanding or
23 in transit, in this State, as of the most recent quarter
24 available.

25 (6) The annual license renewal fees and any penalty
26 fees as provided by Section 45 of this Act.

27 (7) Evidence sufficient to prove to the satisfaction of
28 the Director that the licensee has complied with all
29 requirements under Section 20 relating to its net worth,
30 under Section 30 relating to its surety bond or other
31 security, and under Section 50 relating to permissible
32 investments.

33 (8) A statement of a change in information provided by
34 the licensee in its application for a license or its

1 previous applications for renewal including, but not
2 limited to, new directors, officers, authorized sellers,
3 or clearing banks and material changes in the operation of
4 the licensee's business.

5 (b) Each licensee must submit to the Director as of the
6 close of business on December 31 of each year a written
7 description of the licensee's general procedures by which it
8 intends to enter into contracts to engage in money transmission
9 in this State. This description must include the licensee's
10 policies and procedures and other details regarding all of the
11 following matters:

12 (1) The number of authorized sellers and projected
13 sales volume for travelers checks, money orders and all
14 other transmission instruments sold.

15 (2) The procedures for authorized seller selection,
16 including the method of ascertaining the authorized
17 sellers' credit standing.

18 (3) The procedures that authorized sellers shall
19 follow relating to:

20 (A) recordkeeping;

21 (B) safeguarding travelers checks, money orders,
22 and all other instruments or orders for the
23 transmission or payment of money;

24 (C) remittance of proceeds of sales of travelers
25 checks, money orders, and all other instruments or
26 orders for transmission or for payment of money sold to
27 the public, including the time within which such
28 proceeds are required to be remitted to the licensee
29 and remittance procedures; and

30 (D) reporting procedures to be followed by
31 authorized sellers when reporting to the licensee the
32 sale of travelers checks, money orders, and all other
33 instruments or orders for the transmission or payment
34 of money sold to the public, including but not limited

1 to the time within which such sales are to be reported
2 to the licensee, and procedures for reporting such
3 sales.

4 (4) Procedures for distributing policies and
5 procedures pertaining to authorized sellers and the
6 licensee's program to ensure authorized sellers'
7 compliance.

8 (5) The licensee's policy relating to loans to and
9 investment in authorized sellers except loans and
10 investments made by a regulated financial institution in
11 the ordinary course of its business.

12 (6) Such other information and documentation as the
13 Director may require. Such information shall be provided
14 within 45 days of December 31, and at such other times as
15 the Director may require.

16 In addition, each licensee shall submit to the Director as
17 of the close of business on December 31 of each year a listing
18 in alphabetical order of its authorized sellers in this State
19 showing their full names and addresses and licensee assigned
20 identification number grouped by the category of transmission
21 activity the licensee has authorized the authorized sellers to
22 conduct on its behalf.

23 (c) Where possible, all information required to be provided
24 under this Section must be provided by electronic means.

25 (Source: P.A. 92-400, eff. 1-1-02.)

26 (205 ILCS 657/45)

27 Sec. 45. Fees.

28 (a) The Director shall charge and collect fees, which shall
29 be nonrefundable unless otherwise indicated, in accordance
30 with the provisions of this Act as follows:

31 (1) For applying for a license, an application fee of
32 \$100 and a license fee, which shall be refunded if the
33 application is denied or withdrawn, of \$100 plus \$50 ~~\$10~~

1 for each location at which the applicant and its authorized
2 sellers are conducting business or propose to conduct
3 business excepting the applicant's principal place of
4 business.

5 (2) For renewal of a license, a fee of \$100 plus \$50
6 ~~\$10~~ for each location at which the licensee and its
7 authorized sellers are conducting business, except the
8 licensee's principal place of business.

9 (3) For an application to add an authorized seller
10 location, \$50 ~~\$10~~ for each authorized seller location.

11 (4) For service of process or other notice upon the
12 Director as provided by Section 100, a fee of \$10.

13 (5) For an application for renewal of a license
14 received by the Department after December 1, a penalty fee
15 of \$10 per day for each day after December 1 in addition to
16 any other fees required under this Act unless an extension
17 of time has been granted by the Director.

18 (6) For failure to submit financial statements as
19 required by Section 40, a penalty fee of \$10 per day for
20 each day the statement is late unless an extension of time
21 has been granted by the Director.

22 (b) Beginning one year after the effective date of this
23 Act, the Director may, by rule, amend the fees set forth in
24 this Section.

25 (c) All moneys received by the Department under this Act
26 shall be deposited into the Financial Institutions Fund.

27 (Source: P.A. 92-400, eff. 1-1-02.)

28 (205 ILCS 657/75)

29 Sec. 75. Authorized sellers.

30 (a) A licensee may conduct the business regulated under
31 this Act at one or more locations in this State through
32 authorized sellers designated by the licensee.

33 (b) A licensee shall not allow a person to act as its

1 authorized seller until all applicable requirements of this Act
2 have been complied with and the name and address of the person,
3 on a form prescribed by the Director, along with all applicable
4 fees have been submitted to the Department by the licensee.

5 (c) A licensee shall enter into a contract with its
6 authorized seller detailing the nature and scope of the
7 relationship between the licensee and the authorized seller.
8 The contract between a licensee and an authorized seller must
9 require the authorized seller to operate in full compliance
10 with the laws of this State and of the United States. The
11 licensee shall provide the Director with the sample written
12 contract.

13 Each written contract between a licensee and an authorized
14 seller entered into or renewed after the effective date of this
15 amendatory Act of the 93rd General Assembly shall provide all
16 of the following:

17 (1) A description of the category or categories of
18 money transmission activity the licensee is authorized to
19 lawfully engage in under its license that it may do through
20 an agent.

21 (2) An acknowledgment that the Director reserves the
22 right to inspect, with or without prior notice to the
23 licensee or the licensee's authorized sellers, the books
24 and records of the authorized sellers of the licensee.

25 (3) That authorized sellers shall not sell any
26 travelers check, money order, or other money transmission
27 instrument in this State unless the name of the licensee
28 shall clearly appear on the face of the instrument and the
29 licensee shall not condition its engagement as obligor
30 under the payment instrument upon the remittance of the
31 proceeds of sale from the authorized seller.

32 (4) That an authorized seller shall not sell any
33 travelers check, money order, or other money transmission
34 instrument in this State unless the authorized seller has

1 provided the Director with a written and irrevocable
2 consent to examine, have access to, and retain copies of
3 all of its books and records, wherever maintained, relating
4 to these activities.

5 (5) That authorized sellers in this State are under a
6 duty to act only as authorized under the agency contract
7 and that an authorized seller that exceeds its authority is
8 subject to cancellation of the agency contract and may
9 result in further disciplinary action against the licensee
10 by the Director.

11 For each contract entered into before the effective date of
12 this amendatory Act of the 93rd General Assembly, a notice
13 containing the information in items (1) through (5) of this
14 subsection shall be sent by each licensee to each of its agents
15 in Illinois within 45 days after the effective date of this
16 amendatory Act of the 93rd General Assembly.

17 (d) The financial responsibility of a licensee for the
18 actions of its authorized seller shall not exceed the amount of
19 funds received by the authorized seller on behalf of its
20 licensee for transmission.

21 (e) An authorized seller has an affirmative duty not to (1)
22 commit fraud or misrepresentation and (2) submit fraudulent
23 statements to the licensee. A licensee shall, as soon as
24 practical, report to the Director and to any other appropriate
25 official of this State or of the United States when it has
26 probable cause to believe an authorized seller has violated the
27 affirmative duty set forth in this subsection.

28 (f) The licensee shall require the authorized seller to
29 hold in trust for the licensee from the moment of receipt the
30 proceeds of any business transacted under this Act in an amount
31 equal to the amount of proceeds due the licensee less the
32 amount due the authorized seller. The funds shall remain the
33 property of the licensee whether or not commingled by the
34 authorized seller with its own funds. In the event that the

1 license is revoked by the Director, all proceeds then held in
2 trust by authorized sellers of that licensee shall be deemed to
3 have been assigned to the Director. If an authorized seller
4 fails to remit funds to the licensee in accordance with the
5 time specified in its contract with the licensee, the licensee
6 may bring a civil action against the authorized seller for 3
7 times the actual damages. The Director may provide by rule a
8 maximum remittance time for authorized sellers.

9 (g) A licensee shall, upon discovery, immediately report to
10 the Director, and an authorized seller, shall upon discovery,
11 immediately report to its licensee, the theft or loss of any
12 payment instrument from the licensee or authorized seller in
13 Illinois, having a value in excess of \$100 or an aggregate
14 value of \$1,000 in any 3 month period.

15 (h) Upon suspension or revocation of a license, the failure
16 of a licensee to renew its license, or the denial of the
17 renewal of a license, the licensee shall notify its authorized
18 sellers of the Director's action and require them to
19 immediately cease operation as its authorized sellers.

20 (i) A licensee shall report the removal of an authorized
21 seller location or the termination of operations of an
22 authorized seller location to the Director on a quarterly
23 basis.

24 (j) No authorized seller shall act outside its scope of
25 authority as defined by this Act and by its contract with the
26 licensee with regard to any transaction regulated by this Act.

27 (Source: P.A. 88-643, eff. 1-1-95.)".